

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

FILED

IN THE MATTER OF:

The Marlboro Outlet, Inc.,

Debtor.

) Case No. 01-13160-W
) Chapter 7
) Asset Case

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DISTRICT OF SOUTH CAROLINA

**NOTICE OF OPPORTUNITY FOR HEARING AND APPLICATION
FOR SALE OF ASSETS FREE AND CLEAR OF LIENS**

TO: ALL CREDITORS AND PARTIES IN INTEREST:

YOU ARE HEREBY NOTIFIED on January 12, 2002, Ralph C. McCullough, II, as Trustee in the above-referenced bankruptcy served this Application for Sale of Assets Free and Clear of Liens in which he proposes to sell the property herein described free and clear of all liens and encumbrances according to the terms and conditions stated below. A copy of the proposed Order Authorizing Sale of Assets Free and Clear of Liens accompanies this Notice and Application.

TAKE FURTHER NOTICE that any response, return and/or objection to the Application should be filed with the Clerk of the Bankruptcy Court and served on all parties in interest within twenty (20) days from the date of this notice.

TAKE FURTHER NOTICE that no hearing will be held on this Application unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on **February 12, 2002 at 9:30 a.m.**, at the United States Bankruptcy Court, District of South Carolina, 1100 Laurel Street, Columbia, South Carolina. No further notice of this hearing will be given.

TYPE OF SALE: Liquidation Sale and Public Auction without reserve

PROPERTY TO BE SOLD: Bed comforter sets, pillows, bed sheets, bed spreads, curtains, flower arrangements, table cloths, drapes & royal cash register (the "Inventory").

PROPERTY IS SOLD "AS IS, WHERE IS"

PRICE: What a willing buyer would pay a willing seller

APPRAISAL VALUE: \$8,000.00 (Debtor values at \$50,000.00)

BUYER: Person(s) attending Liquidation Sale and Public Auction.

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BUYER HAS NO RELATIONSHIP WITH THE DEBTOR, UPON INFORMATION AND BELIEF, BY THE TRUSTEE

PLACE AND TIME OF SALE: The Liquidation Sale will begin on February 12, 2002 and will be followed the next day, February 13, 2002, by the Public Auction of all remaining items. The sale will be held at 12509 highway 17 Bypass South, Murrells Inlet, South Carolina.

SALES AGENT/AUCTIONEER/BROKER: Godley Auction Company, Post Office Box 67, Cope, South Carolina 29038 Agent: J.W. Hughes 803-534-8713.

COMPENSATION TO SALES AGENT/AUCTIONEER/BROKER, ETC.: \$1,200.00

Commission is based on the following sliding scale:

- 15% of first \$10,000.00 of Gross Sales Proceeds
- 12.5% of next \$20,000.00 of Gross Sales Proceeds
- 10% of balance of the Gross Sales Proceeds

ESTIMATED TRUSTEE'S COMPENSATION ON SALE: Approximately \$1,550.00 however Trustee's compensation will not exceed the limits set forth in 11 U.S.C. §326(a).

LIENS/MORTGAGES/SECURITY INTERESTS ENCUMBERING PROPERTY:

Carolina First Bank has a perfected security interest in the assets subject to this sale. The Trustee proposes to pay Carolina First Bank the net proceeds of sale after deducting the costs, commissions, and expenses listed in a. - f. below.

- a. Auctioneer's Commission based on the gross proceeds of sale of the equipment to Godley Auction Company, ("Godley"). Godley will receive the following;
 - 15% of first \$10,000.00 of Gross Sales Proceeds
 - 12.5% of next \$20,000.00 of Gross Sales Proceeds
 - 10% of balance of the Gross Sales Proceeds
- b. Auctioneer's expenses to include but not be limited to advertising and set up costs to Godley Auction Company which cost will not exceed \$1,900.00.
- c. The Trustee's statutory compensation as more fully set forth in §326(a) of the United States Bankruptcy Code. The percentage will be determined at the completion of the sale. (This sum will be escrowed by the Trustee pending further Court Order).
- d. A percentage of the gross proceeds of sale for creditors, other than secured creditors of the estate, which will be equal to the Trustee's statutory compensation as stated above. The percentage will be determined at the completion of the sale. (This sum will be escrowed by the Trustee pending further Court Order).
- e. Administrative rent claim to Mrs. Iris Cottingham in the approximate amount of \$1,000.00 for rent during the Chapter 7 proceeding.

- f. Pro-rata share of Trustee's administrative cost to include but not be limited to costs of the notice of sale, postage, attorney's fees and accountant's fees to be held in escrow by the Trustee pending further Court Order. (\$TBD)

All tax liens as defined in 11 U.S.C. §724(b) of the United States Bankruptcy Code, including real and personal property taxes, if allowed, which may be due now or after the closing on the sale will be treated as secured tax claims pursuant to 11 U.S.C. §724(b) and will be subordinate to all administrative claims. The property subject to this sale will be sold free and clear of said tax liens with the liens to attach to the sale proceeds.

EXPENSES OF SALE: The Auctioneer's expenses for transport, storage rent and set up will not exceed \$1,900.00.

DEBTOR'S EXEMPTION: NONE

PROCEEDS ESTIMATED TO BE RETAINED BY ESTATE: \$3,000.00

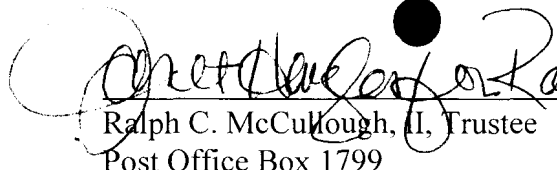
Applicant is informed and believes that it would be in the best interest of the estate to sell said property by Liquidation Sale and Public Auction. Applicant also believes that the funds to be recovered for the estate from the sale of said property justify its sale and the filing of this Application.

Any party objecting to the trustee's sale must do so in writing, and in accordance with SC LBR 9014-1. All objections should be filed with the Clerk of Court, United States Bankruptcy Court, 1100 Laurel Street, Post Office Box 1448, Columbia, South Carolina 29202, with a copy served on the Trustee, in possession, as applicable, at the address shown below. A copy of the objection should also be served on the United States Trustee, AT&T Building, 1201 Main Street, Suite 2440, Columbia, South Carolina 29201. **All objections must be filed and served within twenty (20) days from the date of this notice in accordance with the terms recited herein.** If an objection is filed and served, a hearing will be held on the objection at the date and time noted on the Notice of Application and Opportunity for Hearing.

The Court may consider additional offers at the hearing held on an objection to the sale. The Court may order at this hearing that the property be sold to another party on equivalent or more favorable terms.

The trustee or debtor in possession, as applicable, may seek sanctions or other similar relief against any party filing a spurious objection to this notice.

WHEREFORE, Applicant requests the Court to issue an Order Authorizing Sale of Assets Free and Clear of Liens and such other and further relief as may be proper.


Ralph C. McCullough, II, Trustee

Post Office Box 1799

Columbia, South Carolina 29202

(803) 765-2935

District Court I.D. No.: 2786

with Consent

Columbia, South Carolina

1-12, 2002.

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